

REMARKS

The Amendments

The claims are amended to remove the solvate term to address the 35 U.S.C. §112 rejection.

Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Rejection under 35 U.S.C. §112

The rejection of claims 1, 12, 13 and 15-19 under 35 U.S.C. §112, first paragraph, for lack of enablement of the “solvate” term, is rendered moot by the removal of this term from the claims, as suggested in the Office action.

The Withdrawn Method Claims

Applicants respectfully submit that the withdrawn method of preparation claims, claims 2-11, should be rejoined with the compound claims – which in light of the above are believed to be allowable. If the compounds are novel and nonobvious, it logically follows that the method for making those compounds would be novel and nonobvious, i.e., if the compounds are not known or suggested, there is no motivation to provide a method for making them. Rejoinder of such claims is in accordance with the practice in In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995), In re Brouwer, 37 USPQ2d 1663 (Fed. Cir. 1996), and the Commissioner’s notice thereon at 1184 TMOG 86, March 26, 1996.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/John A. Sopp/
John A. Sopp, Reg. No. 33,103
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-2979

Date: May 16, 2008
JAS:sb